

IN THE UNITED STATES COURT of the Southern DISTRICT of OHIO

Office of the Clerk of Courts

100 East 5th St.

Room # 103

Cincinnati, OH 45202

Pursuant to United States v. Abdulkader, Criminal No. 1:16-cr-00019

REQUEST for COURT DOCUMENTS

To the Office of the Clerk of Courts:

Movant respectfully requests particular documents relevant to his criminal prosecution and defense;

- a) all indictments;
- b) warrant of arrest;
- c) court docket sheet;
- d) Certified copy of the plea agreement;
- e) Affidavit of criminal complaint, pursuant to [Rules 3 and 4 of the Federal Rules of Criminal Procedure];
- f) Information, pursuant to [Rule 7(b) of Federal R. Crim. P.];
- g) Arrest warrant or Summons upon Complaint, pursuant to [Rule 4 of Fed. R. Crim. P.];
- h) Letter of Certificate of Concurrence, in accordance with [Fed. R. Crim. P. Rule 6(c)], and;
- i) Affidavit of Probable Cause hearing, pursuant to [Rules 3 and 4].

Federal prisoners may obtain transcripts and other documents pursuant to the [Court Reporter Act, 28 USC section 753(f)]. The requests in this letter are clearly not frivolous and my criminal case required these documents to be decided. Furthermore, the [Freedom of Information Act, 5 USC section 552] requires the government to disclose all pertinent documents that are not national-security classified. The movant is financially incapable of procuring these documents and is in need of them in order to determine if his criminal proceedings were according to the rights enumerated by law.

Thank you for your assistance.

Signed on this 25 day of April, 2019

x Munir Abdulkader

Name: Munir Abdulkader, Pro Se

Inmate ID: 73031-061

PC or USP (Circled) ALLENWOOD

PO Box 2000

White Deer, PA 17887

U.S. Department of Justice

Certification of Identity



Privacy Act Statement. In accordance with 28 CFR Section 16.41(d) personal data sufficient to identify the individuals submitting requests by mail under the Privacy Act of 1974, 5 U.S.C. Section 552a, is required. The purpose of this solicitation is to ensure that the records of individuals who are the subject of U.S. Department of Justice systems of records are not wrongfully disclosed by the Department. Failure to furnish this information will result in no action being taken on the request. False information on this form may subject the requester to criminal penalties under 18 U.S.C. Section 1001 and/or 5 U.S.C. Section 552a(i)(3).

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Suggestions for reducing this burden may be submitted to Director, Facilities and Administrative Services Staff, Justice Management Division, U.S. Department of Justice, Washington, DC 20530 and the Office of Information and Regulatory Affairs, Office of Management and Budget, Public Use Reports Project (1103-0016), Washington, DC 20503.

Full Name of Requester ¹ Muhammad ABDULKADER

Citizenship Status ² U.S. CITIZEN Social Security Number ³ _____

Current Address FCT ALLENWOOD White Deer, PA 17887 P.O. Box 200

Date of Birth 07-29-94 Place of Birth ETHIOPIA

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.

Signature ⁴ Muhammad Date 6-07-19

OPTIONAL: Authorization to Release Information to Another Person

This form is also to be completed by a requester who is authorizing information relating to himself or herself to be released to another person.

Further, pursuant to 5 U.S.C. Section 552a(b), I authorize the U.S. Department of Justice to release any and all information relating to me to:

MUHAMMAD ABDULKADER
Print or Type Name

¹ Name of individual who is the subject of the record sought.

² Individual submitting a request under the Privacy Act of 1974 must be either "a citizen of the United States or an alien lawfully admitted for permanent residence," pursuant to 5 U.S.C. Section 552a(a)(2). Requests will be processed as Freedom of Information Act requests pursuant to 5 U.S.C. Section 552, rather than Privacy Act requests, for individuals who are not United States citizens or aliens lawfully admitted for permanent residence.

³ Providing your social security number is voluntary. You are asked to provide your social security number only to facilitate the identification of records relating to you. Without your social security number, the Department may be unable to locate any or all records pertaining to you.

⁴ Signature of individual who is the subject of the record sought.

Requestor:

Name: Munir Abdulkader

Register No: 73031-061

FOIA/PA Form

Address: FBI ALLENwood

White Deer, PA 17887 P.O BOX 2000

Agency:

F.B.I. ☐

D.E.A. ☐

B.O.P. ☐

I.R.S. ☐

A.T.F. ☐

I.N.S. ☐

Other: Court documents, Various, including DOJ

FREEDOM OF INFORMATION ACT/PRIVACY ACT REQUEST
UNDER TITLE 5 U.S.C. §§ 552, 552a(d)(a)

Dear Sir/Ms:

This is a formal request pursuant to the provisions of the Freedom of Information Act under Title 5 U.S.C. §552 and the Privacy Act under Title 5 U.S.C. §552a(d)(1) and the applicable Federal Statutes that governs disclosure of the requested information listed below.

- 1) GRAND JURY TRANSCRIPTS
- 2) INDICTMENTS FOR CRIMINAL NO.
- 3) WARRANT OF ARREST
- 4) GRAND JURY BALLOT OR RECORD FOR INSPECTION
- 5) CRIMINAL COMPLAINT
- 6) CERTIFICATE OF CONCURRENCE
- 7) _____

It is further requested that your Agency provide me with a copy of specific regulations of your department as provided by statute under 5 U.S.C. § 552, so that compliance with such regulations are adhered to except as otherwise provided by law.

Pursuant to Title 5 U.S.C. § 552(6) (A) (i) (ii), It is noted that your Agency has ten (10) working days following receipt of this request to provide the information sought. Should any delay occur, it is requested that your Agency inform me of this delay as provided by Agency Regulations, and the date as to when your Agency will be able to act upon my request.

This request is made under the FOIA/PA under 5 U.S.C. §§ 552, 552a together with the "ALTERNATE MEANS OF ACCESS" to permit access to records that have been filed or still on file with your Agency.

Thank you,

Munir Abdulkader

I, Munir Abdulkader, declare under the penalty of perjury that I am the Requestor who is currently incarcerated

I may also be identified by my SSN: _____
DOB: 07-29-94 and U.S. Marshal/BOP Register No. 73031-061.

To assure your Agency that there is no fraud, I have included my personal information.

Direct Response To:

Munir Abdulkader
FCI ALLENWOOD
White Deer, PA 17887
P.O. Box 5000

Respectfully submitted,

mi [Signature]

This 7 day of June, 2019

In The UNITED STATES COURT of the SOUTHERN DISTRICT of OHIO

THE UNITED STATES OF AMERICA - Plaintiff;

v.

MUNIR ABDULKADER - Defendant, Pro Se;

Criminal No. 1:16-cr-00019-MRB

MOTION for DISCLOSURE of: GRAND JURY TRANSCRIPTS, BALLOT, or RECORD for INSPECTION; INDICTMENT; and CRIMINAL COMPLAINT

NOW COMES movant Munir Abdulkader, acting in proper person, to respectfully request this Court to issue an "Order of Disclosure" for several essential documents pertaining to his criminal prosecution. The documents requested for disclosure are: grand jury hearing transcripts, ballot, or record for inspection; indictment pertaining to the criminal charge; and criminal complaint.

In support of the foregoing, the movant states the following facts:

I . REASONS (INJUSTICE ARGUMENT)

- a) Capital or infamous crimes may not be charged against any person without presentment of an indictment by a grand jury of his peers;
- b) Grand jury transcripts, ballots, and records must be available for inspection so as to determine the validity of those proceedings;
- c) An affidavit of criminal complaint is required to establish probable cause of any potential criminal conduct;
- d) Without an indictment, no jurisdiction is established;
- e) If jurisdiction is not established, no person may be detained;
- f) If the Rules of criminal procedure are significantly violated, a person's due process rights are violated;
- g) Due process includes "life, liberty, and the pursuit of happiness" or "property" which are stripped by incarceration;
- h) Movant was convicted of "Attempted Murder of Government Employees and Officials" 18 United States Code, section 1114, "Possession of a Firearm in Furtherance of Attempted Crime of Violence" 18 United States Code, section 924, subsection (c), and Material Support to a Designated Foreign Terrorist Organization, section 2339, subsection (b);
- i) Without disclosure of the requested documents, movant cannot ascertain whether or not his due process rights were upheld;
- j) Their absence on the court's docket indicates injustice;
- k) The hearings pursuant to some or all of these documents and their inclusion on the record were not docketed by the court, and;
- l) Movant is financially incapable of procuring these documents without the court's assistance.

II . REQUEST for RELIEF

Movant requests the following documents for disclosure:

- a) Grand Jury Transcripts;

- b) Grand Jury Ballot;
- c) Grand Jury Record;
- d) Indictment, duly endorsed by its foreperson and the United States Attorney, and;
- e) Criminal Complaint.

III . GROUNDS

A potential injustice is suspected and is argued. Movant believes that his prosecution may have been in violation of the constitution's Fourth Amendment. If the required documents for a valid arrest were not present, Federal Statutory rights were violated. The argument arises from the fact that some are currently not docketed in the court's record. A sound Affidavit of Criminal Complaint seems to be non-existent, according to the court's docket. Such an absence of Complaint would mean that essential facts constituting the jurisdiction to determine the charges are also absent. Under Federal Rules of Criminal Procedure Three (3) and Four (4), the purpose of such a Complaint is to enable the appropriate magistrate to determine whether the required probable cause to support a warrant exists. [Giordenello v. United States, 357 U.S. 480, 2 L. Ed. 2d 1503, 78 S. Ct. 1245]

The absence of those documents means that the government, in its prosecution, failed to comply with the rules prescribed under the authority of Congress. In the acts of June 29th, 1940 ch. 445, 18 USC (former) statute 687 and statute 3771, Congress detailed the proceedings in a criminal case prior to and including the verdict. By failing to comply, the Fifth Amendment of the Constitution and the laws of the United States are violated. Implicitly jurisdictional, the constitution states, "No person shall be held to answer for a capital or otherwise infamous crime unless on presentment of Indictment by a Grand Jury..." Therefore, movant had a right to a grand jury indictment. Yet, the record of the court docket contains no account of such a hearing. Therefore, without disclosure of the records, it is impossible to determine whether movant was ever actually indicted. In [Ex parte Bain 121 U.S. 1, 7 S. Ct. 781, 30 L. Ed. 849, (1887)], the Supreme Court held that District Courts have no jurisdiction to charge a person if material complications abound vis-a-vis the grand jury's impaneling or competency on finding the indictment. A trial on such an indictment is void.

It is conceivable that the Court lacked authority to performed the functions authorized by law in its criminal proceedings, as delineated in Rule Six (6) of Federal Criminal Procedure. That would mean that movant was deprived of his Constitutional and Statutory rights as of May the twenty-first, 2015. He is an American citizen. Disclosure is required as it is not possible to determined whether the arrest conformed to Rule (9) of Federal Criminal Procedure, Arrest Warrant or Summons or Indictment or Information. As the defense continuously encouraged Abdulkader to file waivers for many of his rights, it is seems likely that a campaign to deprive him of his rights may have been in play.

If no indictment can be produced, the essential elements of Fed.F.Cr.P 6(a) are not affirmatively demonstrated. A lawfully impaneled jury of twelve must concur with the indictment, as in subsection 6(c), for it to reach the status of "true bill." The purpose of an independent grand jury is not only to investigate possible criminal conduct but also to act as a "protector of citizens from arbitrary and oppressive governmental action." The grand jury's explicit purpose is to "stand between the prosecutor and the accused," determining the legitimacy of charges or whether it "is dictated by malice or personal ill." Cf. Hale v. Henkell 201 U.S. 42 (1906). Former Supreme Court Justice A. Scalia expounds, in United States v. Williams, 504 U.S. 36 (1992), that the grand jury is the equivalent of a fourth branch of government not to be tampered with by any other branch.


Movant was never accorded the right to inspect the grand jury ballot or record, which indicates the exact number of jurors in concurrence with finding the indictment. It is unknown if such a record was properly maintained. The docket sheet for the court does not indicate that the grand jury ever convened, in fact, and no entry for it is evident. [Douglas Oil Co. of California v. Petrol Stops Northwest, 441, U.S. 211, 60 L. Ed. 2d 156, 99 S. Ct. 1667 (1979)] determined that material sought to prevent possible injustice in another judicial proceeding has greater precedence than whatever need exists for continued secrecy. The request for such material must be structured to encompass only the material needed.

The Constitution provides that, "no person shall be deprived of life or liberty without due process of law." Movant prepares to file a civil action regarding his incarceration but will be unable to do so without the requested documents. Absolute immunity defenses are intended to be circumvented by the actual conduct of the judicial officers acting in violation of Federal Statutes, as in [Stump v. Sparkman 435 U.S. 349, 356-357, 55 L. Ed. 331, 98 S. Ct 1099 (1978)]. Injustice may abound without the disclosures. Pursuant to Rule 6(e) of Criminal Procedure, the Court must authorize disclosure at a time, in a manner, subject to any other conditions that directs a grand jury preliminary hearing, or another in conjunction with a judicial proceeding, if

requested by a movant who demonstrates that a ground may exist to dismiss the indictment due to a matter occurring, or not occurring, before the grand jury.

Federal prisoners may obtain transcripts and other documents pursuant to the [Court Reporter Act, 28 U.S.C section 753(f)]. The claims raised in this motion meet the clear standard for not being frivolous and require the documents to be decided. Furthermore, the Freedom of Information Act, 5 U.S.C. section 552, requires the government to disclose all pertinent documents that are not national-security classified. The movant is financially incapable of procuring these documents and is in need of them in order to establish the level of injustice perpetrated.

Signed on 4/25/2019,

x  , Pro Se
Munir Abdulkader
Inmate ID #73031-061
FCI Allenwood Medium
PO Box 2000
White Deer, PA 17887

#justiceforall

IV . CERTIFICATE of SERVICE

I, Muneer AbdulKader, hereby certify that the forgoing is a truly served copy. It must be deemed filed at the time delivered to prison authorities for forwarding to the court, Houston v. Lack, 101 L. Ed. 2d 245 (1988), upon the court and parties to litigation and/or his/her attorney(ies) of record; by placing the same in a sealed, postage paid, envelope addressed to the Assistant United States Attorney's following address:

⇔73031-061⇔
Joseph P Kinneary Us Cthouse
Room 121
85 Marconi BLVD
Columbus, OH 43215
United States

itten above.